

Honolulu, Hawaii

APR 04 2014

RE: H.B. No. 1796
H.D. 2
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committees on Judiciary and Labor and Ways and Means, to which was referred H.B. No. 1796, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

beg leave to report as follows:

The purpose and intent of this measure is to prohibit the use of seclusion and reduce the use of restraint in public schools. Specifically, this measure:

- (1) Adds a new section to chapter 302A, Hawaii Revised Statutes, to prohibit the use of seclusion, chemical restraint, or mechanical restraint in public schools;
- (2) Adds a new section to chapter 302A, Hawaii Revised Statutes, to:
 - (A) Prohibit the use of physical restraint unless a student's behavior poses an imminent danger of property damage or physical injury to the student, school personnel, or others and only for so long as the danger persists; provided that other less intrusive interventions have failed or been determined to be inappropriate for the student;
 - (B) Prohibit the use of any physical restraint that is life threatening, including physical restraint that may restrict breathing; or contraindicated based on



the student's disability, health care needs, or medical or psychiatric condition, as documented in a health care directive or medical management plan, a behavior intervention plan, an individual education program, or an individualized family service plan, or plan developed pursuant to Section 504 of the Rehabilitation Act of 1973;

- (C) Require the Board of Education to establish policy regarding the use of restraint in public schools and the Department of Education to establish procedures to be followed after each incident involving the imposition of restraint upon a student;
- (D) Require that all parents and legal guardians of students to receive no less than on an annual basis written information, which includes certain types of information, that is issued by the Department of Education about policies and procedures for restraint;
- (E) Require that staff and parents or legal guardians be notified of any policy or procedural changes relating to restraint;
- (F) Require all public schools to ensure that staff who use restraint in facilities or programs are trained and certified on a periodic basis no less than on an annual basis and specify the components that the training is required to include;
- (G) Require each complex area superintendent to direct, on at least a quarterly basis, a review of data on students at each public school who were restrained, and specify the components that the review is required to include;
- (H) Require each public school to maintain records of its reviews of restraint data and any resulting decisions or actions regarding the use of restraint;
- (I) Require the Department of Education to review policies and procedures on the use of restraint,



specify the components the reviews is required to include, and specify the purposes for the review; and

- (J) Define "chemical restraint", "mechanical restraint", "physical restraint", "restraint", and "seclusion";
- (3) Amends section 302A-1114, Hawaii Revised Statutes, to clarify that no punishment of any kind may be inflicted upon any pupil except as provided for under the new section established under chapter 302A, Hawaii Revised Statutes, relating to the limited use of physical restraint, and section 703-309(2), Hawaii Revised Statutes; and
- (4) Appropriates an unspecified sum to the Department of Education for fiscal year 2014-2015, to provide resources for training and data accountability regarding the use of physical restraint in public schools.

Your Committees received testimony in support of this measure from the Department of Education, State Council on Developmental Disabilities, Special Education Advisory Council, Community Children's Council of Hawaii, Hawaii Association of School Psychologists, and six individuals. Your Committees received testimony in opposition to this measure from two individuals. Your Committees received comments on this measure from the Crisis Prevention Institute and Handle With Care.

Your Committees finds that this measure will promote the safety and well-being of students and school personnel by requiring the Board of Education and Department of Education to establish policies and procedures for the limited use of restraint in public schools.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1796, H.D. 2, S.D. 1, and recommend that it pass Third Reading.



Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Labor and Ways and Means,



DAVID Y. IGE, Chair



CLAYTON HEE, Chair



Record of Votes
Committee on Judiciary and Labor
JDL

*Only one measure per Record of Votes

The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* HB 1796 HD2, SD1	Committee Referral: EDU, JDL/WAM	Date: 4-1-14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
KIDANI, Michelle N. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.				✓
ENGLISH, J. Kalani	✓			
ESPERO, Will				✓
KAHELE, Gilbert	✓			
KEITH-AGARAN, Gilbert S.C.	✓			
KOUCHI, Ronald D.	✓			
RUDERMAN, Russell E.	✓			
THIELEN, Laura H.	✓			
TOKUDA, Jill N.	✓			
SLOM, Sam	✓			
	11	0	0	2
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
<div style="display: flex; justify-content: space-between; font-size: small;"> <div>Distribution:</div> <div>Original</div> <div>Yellow</div> <div>Pink</div> <div>Goldenrod</div> </div> <div style="display: flex; justify-content: space-between; font-size: x-small;"> <div>File with Committee Report</div> <div>Clerk's Office</div> <div>Drafting Agency</div> <div>Committee File Copy</div> </div>				

*Only one measure per Record of Votes